

**United States Department of the Interior
Bureau of Land Management**

Categorical Exclusion

DOI-BLM-CO-SO50-2014-0004

June 2014

Existing Access Road

*Location: approximately 2 miles northeast of Ridgway Reservoir
Ouray County, Colorado*

**U.S. Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, CO 81401
Phone: (970) 240-5300**



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CATEGORICAL EXCLUSION

NUMBER: DOI-BLM-CO-S050-2014-0004

CASEFILE: COC-76270

PROJECT NAME: Existing access road

PLANNING UNIT: Uncompahgre Basin Resource Management Unit

LEGAL DESCRIPTION: New Mexico Principal Meridian, Colorado,
T. 46 N., R. 8 W., Section 11.

APPLICANT: Butch Gunn

DESCRIPTION OF PROPOSED ACTION: The proposed action is to issue a right-of-way to Butch Gunn to use and maintain an existing road which accesses his property. The project area is located approximately 2 miles northeast of Ridgway Reservoir near the Billy Creek State Wildlife Areas.

The right-of-way would be approximately 2230 feet long, 24 feet wide and contain 1.229 acres on public land. Mr. Gunn has no future plans to improve the road; however, every few years he would maintain the road to remove fallen rocks and alleviate erosion along the roadway. The right-of-way would be issued under FLPMA for 30 years with the right of renewal and would be subject to the stipulations in Exhibit A and annual rental. Mr. Gunn had constructed a cow trail in trespass, but he no longer wants it. It is rehabilitating itself and no further reclamation work is recommended. A stipulation will be added to the ROW to restrict motorized access on the trail. No further trespass action will be pursued at this time.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5, BLM 1617.3) the following plan:

Name of Plan: Uncompahgre Basin Resource Management Unit

Date Approved: July 1989

Decision Number/Page: Management Unit 2: Wildlife habitat, coal, woodlands.
Page 147

Decision Language: All other land uses would be permitted if they would not degrade the areas' winter range capabilities.

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies as a categorical exclusion under 516 DM 11.9. Number E(16) which allows issuance of rights-of-way for the use of existing facilities, improvements or sites for the same or similar purposes. None of the following exceptions in 516 DM 2, Appendix 2, apply.

Exclusion	YES	NO
1. Have significant adverse effects on public health and safety.	_____	<u> X </u>
2. Have adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.	_____	<u> X </u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.	_____	<u> X </u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	_____	<u> X </u>
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	_____	<u> X </u>
6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.	_____	<u> X </u>
7. Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places.	_____	<u> X </u>
8. Have adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.	_____	<u> X </u>
9. Have the potential to violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.	_____	<u> X </u>
10. Have the potential for a disproportionately high and adverse effect on low income or minority populations.	_____	<u> X </u>
11. Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites.	_____	<u> X </u>
12. Significantly, contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.	_____	<u> X </u>

INTERDISCIPLINARY REVIEW:

<u>Name</u>	<u>Title</u>	<u>Area of Responsibility</u>
Linda Reed	Realty Specialist	Lands and Realty
Glade Hadden	Archaeologist	Cultural, Native American Religious Concerns
Ken Holsinger	Biologist	T&E and Migratory Birds
Alan Kraus	HazMat Coordinator	Hazardous and Solid Wastes

REMARKS:

Cultural Resources: The proposed ROW is situated entirely within previously disturbed surface. Additional survey is waived under the provision of 8100.23B2, and no further work is required.

Native American Religious Concerns: There are none known or anticipated for this ROW authorization.

Threatened, Endangered Species, and Sensitive & Migratory Birds: There are no threatened, endangered, or candidate species to the Endangered Species Act that currently occupy or derive import use of the proposed right-of-way or the surrounding vicinity.

The upper section of the ROW traverses a Wyoming big sagebrush stand that may support Brewer's sparrow. The sagebrush stand is relatively small in size thus impacts would affect a small number of individuals.

Project may have occurrences of and may have impacts to the following Migratory Bird species: Gray vireo, Pinyon jay, Juniper titmouse. As pinion juniper woodland nesting species, the use and maintenance of the ROW may disrupt nesting and nesting activities. As the route is currently constructed and utilized for access such impacts are likely present and ongoing. The following migratory species (not of conservation concern) may also occur on the site either exhibiting nesting or foraging behavior: green-tailed towhee, gray flycatcher, sage sparrow, vesper sparrow, and lark sparrow.

Required Stipulations:

To minimize impacts on migratory bird populations, it is recommended that no surface disturbing activities occur from May 15 through July 15. This timeframe encompasses the core breeding season for the majority of migratory birds in the project area. Project activities shall retain and avoid modifying identified cavity trees, snags, and perches in the project area.

To protect wintering big game and crucial habitats, no surface disturbing activities shall occur from December 1 through April 30. Exceptions or variances to this restriction will be considered and evaluated according to UFO policies

NAME OF PREPARER: Linda Reed May 30, 2014

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum
Bruce Krickbaum

DATE: 6/6/14

COMPLIANCE WITH NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Number E(16). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

SIGNATURE OF AUTHORIZED OFFICIAL: /s/ Barbara Sharrow
Barbara Sharrow,
Uncompahgre Field Office, Field Manager

DATE SIGNED: 6/10/14

COC-76270
Exhibit A

STIPULATIONS

1. The holder shall contact the authorized officer at least five days prior to the anticipated start of construction and/or any surface disturbing activities. For emergencies, the holder will contact the BLM as soon as possible after maintenance activities. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way. The holder and/or his representative shall attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, shall also attend this conference to review the stipulations of the grant. The BLM authorized representative is Barney Buria, Environmental Protection Specialist, who can be reached at the Uncompahgre Field Office, 2465 South Townsend, Montrose, Colorado 81401 or phone at (970) 240-5333. An alternate contact is Linda Reed, Realty Specialist, Uncompahgre Field Office, (970) 240-5322.
2. The holder shall operate and maintain the access road within this right-of-way in conformance with the terms, conditions and stipulations contained herein. Any relocation, additional construction, or use that is not in accord with the approved conditions shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all plans and stipulations shall be made available at the right-of-way site during construction. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health or the environment.
3. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
4. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

5. Use of pesticides/herbicides shall comply with the applicable Federal and state laws. Pesticides/herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides/herbicides, the holder shall obtain from the authorized officer written approval of the applicant's plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. The plan should be submitted no later than March 1 of any calendar year to cover the proposed activities for the next growing season. Emergency use of pesticides/herbicides shall be approved in writing by the authorized officer prior to such use.
6. The holder shall be responsible for noxious weed control within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations) including pesticides/herbicides approved for use on BLM land.
7. The holder shall comply with applicable State standards for public health and safety, environmental protection and siting, construction, operation and maintenance, if these State standards are more stringent than Federal standards for similar projects.
8. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated regarding toxic substances or hazardous materials. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, section 102b. A copy of any report required or requested by any federal agency of state government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency of State government.
9. The authorized officer may suspend or terminate in whole, or in part, any construction or maintenance activities, when in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
10. All construction, operation and maintenance shall be within the authorized limits of the right-of-way granted herein.
11. No burning of trash, litter, trees, brush or other vegetative material shall be allowed under this grant.

12. All brush, grasses, and other woody material cleared from the right-of-way shall be removed from the public land and not scattered on site; unless the debris is mulched and used for reclamation as natural materials to enhance surface stability and re-vegetation efforts.
13. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support such equipment. If the equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support the construction equipment. Emergency repairs to restore access are exempt; however, any damages to resources caused by emergency repairs during wet conditions will be repaired as directed by the authorized officer as soon as possible after the occurrence.
14. The holder shall disturb and remove only the minimum amount of soils and vegetation necessary for the operation and maintenance of the access road. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation. The holder shall re-contour disturbed areas as necessary by grading to restore the area to approximately the original contour of the ground as directed by the authorized officer.
15. The holder shall maintain the road under this right-of-way in order to provide for reasonable access to the landowners property. The general road standard is shown on the attached Typical Road Cross Section Diagram. Road maintenance shall be performed to minimize erosion along the roadway and adjacent land. Road maintenance shall include, but is not limited to road blading, surfacing as necessary, constructing side ditches, and maintenance of culverts, if applicable. If the holder's scope of use exceeds the road standards defined herein, then the holder shall apply for an amendment to the right-of-way in order to provide for such an upgrade in road standard, as determined by the authorized officer.
16. The holder shall seed all disturbed areas with the following seed mix. There shall be no primary or secondary noxious weed seed in the seed mixture. In addition, there should be no more than 0.5% total weed seed, less than 2% other seed, and no trash larger than ¼ inch in length. Seed shall not be stored in burlap bags. Seed going on projects less than 20 acres or less than 200 lbs. shall be tested, and the viability testing of seed shall be done in accordance with State law(s). Seed tests shall be less than one year old and can be from the company's seed test. Seed test documents can be from: a) certified "blue" tag(s); b) an independent seed lab test; or c) a seed lab analysis either by seed lot or by seed mix. Copies of the seed test documents shall be forwarded to the BLM, Uncompahgre Field Office. Commercial seed shall be either certified or registered pure live seed (PLS). The seed container shall be tagged in accordance with State law(s) and available for inspection by the authorized officer. Only State Certified weed free mulch shall be used.

The seed shall be evenly and uniformly planted over any disturbed areas. Seed shall be broadcast and the area shall be raked or chained to cover the seed. The seeding will be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth will not be made before completion of the second growing season after seeding. The authorized officer is to be notified a minimum of two days prior to

seeding of the project. Seeding shall be completed at a time of optimum soil moisture content, i.e., early spring or the fall.

<u>Seed Mix</u>	<u>Pounds/acre PLS</u>
Western Wheatgrass	4
Indian Ricegrass or Bottlebrush squirreltail	$\frac{4}{8}$
Total	8 lbs/acre PLS

17. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination and rehabilitation plan as necessary. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
18. To minimize impacts on migratory bird populations, it is recommended that no surface disturbing activities occur from May 15 through July 15. This timeframe encompasses the core breeding season for the majority of migratory birds in the project area. Project activities shall retain and avoid modifying identified cavity trees, snags, and perches in the project area.
19. To protect wintering big game and crucial habitats, no surface disturbing activities shall occur from December 1 through April 30. Any exceptions to this requirement must have prior written approval from the authorized officer.
20. Trespass Trail: No motorized vehicles or bikes are allowed on the trespass cow trail. The holder shall be responsible for noxious weed control within the limits of the trail. Reclamation of the trail may be required per BLM's direction. See Exhibit C, map of trespass trail.

**Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, CO 81401**

Decision Record

(DOI-BLM-CO-S050-2014-0004 CX)

PROJECT NAME: Right-of-way for an existing access road

DECISION: It is my decision to issue a right-of-way to Butch Gunn for an existing road to access private property. The road is located approximately 2 miles northeast of the Ridgway Reservoir near the Billy Creek State Wildlife Areas.

The right-of-way is approximately 2230 feet long, 24 feet wide and contains 1.229 acres on public land. There are no future plans to improve the road; however, every few years the road may need to be maintained. The right-of-way will be issued under FLPMA for 30 years with the right of renewal and would be subject to the stipulations in Exhibit A and annual rental. Mr. Gunn had constructed a cow trail in trespass, but he no longer wants it. It is rehabilitating itself and no further reclamation work is recommended. A stipulation will be added to the ROW to restrict motorized access on the trail. No further trespass action will be pursued at this time.

MITIGATION MEASURES:

All stipulations shown in Exhibit A of the Categorical Exclusion (CX) will be followed.

RATIONALE:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Number E(16). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

COMPLIANCE WITH MAJOR LAWS and CONFORMANCE WITH LAND USE PLAN:

The decision is in compliance with applicable laws, regulations and policy, including the Endangered Species Act, Migratory Bird Treaty Act and National Historic Preservation Act. It is also in conformance with the Uncompahgre Basin RMP.

PUBLIC COMMENT:

The BLM informed the public about this project by listing it on the online Uncompahgre NEPA Register and a copy of the completed CX will be posted on the NEPA website.

ADMINISTRATIVE REMEDIES:

If you are adversely affected by this decision, within 30 days of receipt of this decision you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR §4.400. This decision goes into effect immediately and will remain in effect pending appeal unless a stay is granted (43 CFR §2801.10).

NAME OF PREPARER: Linda Reed

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum
Bruce Krickbaum

DATE 6/6/14

SIGNATURE OF AUTHORIZED OFFICIAL /s/ Barbara Sharrow
Barbara Sharrow
Field Manager
Uncompahgre Field Office

DATE SIGNED 6/10/14